

MICHAEL G. COLANTUONO, State Bar No. 143551  
MColantuono@chwlaw.us  
HOLLY O. WHATLEY, State Bar No. 160259  
HWhatley@chwlaw.us  
PAMELA K. GRAHAM, State Bar No. 216309  
PGraham@chwlaw.us  
COLANTUONO, HIGHSMITH & WHATLEY, PC  
790 E. Colorado Blvd., Suite 850  
Pasadena, California 91101-2109  
Telephone: (213) 542-5700  
Facsimile: (213) 542-5710

Attorneys for Respondent/Defendant  
DOWNTOWN CENTER BUSINESS  
IMPROVEMENT DISTRICT  
MANAGEMENT CORPORATION  
(also sued erroneously as Downtown  
Center Business Improvement District)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

HILL RHF HOUSING PARTNERS, L.P. a  
California limited partnership; OLIVE RHF  
HOUSING PARTNERS, L.P., a California  
limited partnership,

Petitioner/Plaintiffs,

v.

CITY OF LOS ANGELES; DOWNTOWN  
CENTER BUSINESS IMPROVEMENT  
DISTRICT, a special assessment district in the  
City of Los Angeles; DOWNTOWN CENTER  
BUSINESS IMPROVEMENT DISTRICT  
MANAGEMENT CORPORATION, a  
California nonprofit corporation; and DOES 1  
through 10, inclusive,

Respondents/Defendants.

Case No. BS170127  
*Unlimited Jurisdiction*

(Case assigned to Hon. Amy Hogue)

**RESPONDENT DOWNTOWN CENTER  
BUSINESS IMPROVEMENT  
DISTRICT'S RESPONSE TO  
EVIDENTIARY OBJECTIONS TO  
DECLARATION OF SUZANNE  
HOLLEY IN SUPPORT OF DCBID'S  
RESPONSIVE TRIAL BRIEF**

Complaint Filed: July 3, 2017

Trial Date: September 19, 2018  
Time: 9:30 a.m.  
Dept.: 86

**RESPONSE TO OBJECTIONS TO DECLARATION OF SUZANNE HOLLEY**

**Response to Objection No. 1: Paragraphs 1–4**

Extra-record evidence is generally foreclosed in a writ of mandate case. (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 571.) However, narrow exceptions are permitted for post-hoc evidence not inconsistent with the administrative record that help explain the agency’s decision. The Declaration of Suzanne Holley falls within this narrow exception.

In *Outfitter Properties, LLC v. Wildlife Conservation Bd.* (2012) 207 Cal.App.4th 237 (“*Outfitter Properties*”), Outfitter challenged the Wildlife Conservation Board’s decision to allocate funds from its Habitat Conservation Fund to the federal Bureau of Reclamation. (*Id.* at p. 251.) Outfitter claimed the trial court erred in admitting documents that were not considered by the Board in making its expenditure decision, even though they related to that decision, because they were created after the Board approved the expenditure. (*Ibid.*) The *Outfitter Properties* court affirmed the trial court’s decision to admit the records, holding, “Although extra-record evidence is not admissible to contradict evidence upon which the administrative agency relied in making its quasi-legislative decision, or to raise a question regarding the wisdom of that decision (Citation), it may be admissible to provide background information regarding the quasi-legislative agency decision, to establish whether the agency fulfilled its duties in making the decision, or to assist the trial court in understanding the agency’s decision.” (*Ibid.*)

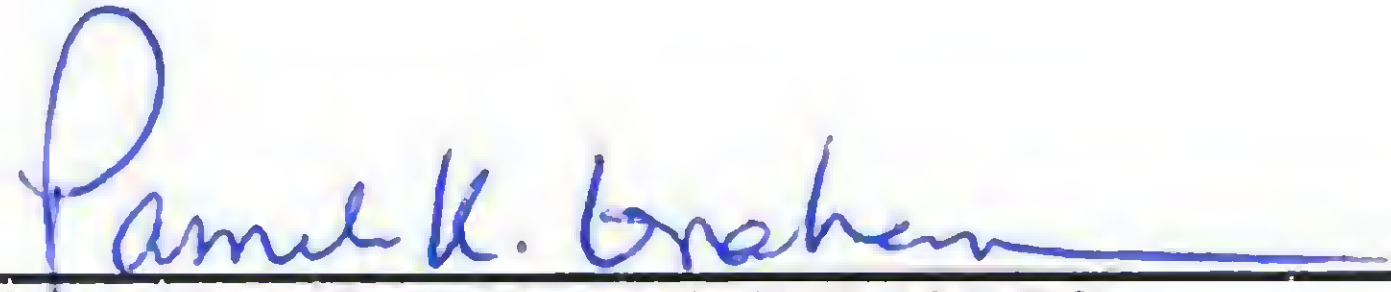
Here, the Declaration of Suzanne Holley notes DCBID completed 51 service calls to the Angelus Plaza properties, which included responses to maintenance requests, wellness checks, response to work orders, and service calls, such as responding to concerns of trespassers on the properties. Petitioners are the owners of the Angelus Plaza properties. Although DCBID’s service calls were completed after the City of Los Angeles’ (“City”) decision to (1) form the Downtown Center Business Improvement District (“DCBID”) and (2) levy its assessment to provide supplemental municipal services for the benefit of Petitioners Hill RHF Housing Partners, L.P. and Olive RHF Housing Partners, L.P. (“Petitioners”), like *Outfitter Properties*, the information does not contradict the administrative record and is helpful in understanding the City’s decision in approving the BID and the special benefits considered, approved, and delivered by the City. As argued in



1 DCBID's Responsive Trial Brief, the decision of nearly all those assessed and the City Council to  
2 fund the services is easily understood. The Engineer's Report identified and discussed the particular  
3 benefits to the assessed properties from each of the BID's services. Ms. Holley's declaration  
4 confirms the types of services delivered to those assessed, including Petitioners. It, assists, assists the  
5 Court in understanding the City's decision. For these reasons, the Declaration of Suzanne Holley is  
6 admissible extra-record evidence.

7  
8 DATED: September 12, 2018

**COLANTUONO, HIGHSMITH &  
WHATLEY, PC**



MICHAEL G. COLANTUONO  
HOLLY O. WHATLEY  
PAMELA K. GRAHAM

Attorneys for Respondent/Defendant  
DOWNTOWN CENTER BUSINESS  
IMPROVEMENT DISTRICT  
MANAGEMENT CORPORATION



Colantuono, Highsmith & Whatley, PC  
790 E. COLORADO BOULEVARD, SUITE 850  
PASADENA, CA 91101-2109

## PROOF OF SERVICE

Hill RHF Housing Partners v. City of Los Angeles, et al.  
Los Angeles Superior Court Case No. BS 170127

I, the undersigned, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 790 E. Colorado Blvd., Suite 850, Pasadena, CA 91101. On August 12, 2018, I served the document(s) described as: **RESPONDENT DOWNTOWN CENTER BUSINESS IMPROVEMENT DISTRICT'S RESPONSE TO EVIDENTIARY OBJECTIONS TO DECLARATION OF SUZANNE HOLLEY IN SUPPORT OF DCBID'S RESPONSIVE TRIAL BRIEF** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

### SEE ATTACHED SERVICE LIST

- ☐ **BY FACSIMILE:** By transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.
- ☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed on the attached service list.
- ☐ **BY MAIL:** The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.
- ☐ **OVERNIGHT DELIVERY:** By overnight delivery, I placed such document(s) listed above in a sealed envelopes, for deposit in the designated box or other facility regularly maintained by FEDERAL EXPRESS or GOLDEN STATE OVERNIGHT (GSO) for overnight delivery. I caused such envelopes to be delivered to the office of the addressees listed on the attached service list via overnight delivery pursuant to C.C.P. §1013(c), with delivery fees fully prepaid or provided for.
- ☐ **PERSONAL SERVICE:** I caused such envelopes to be delivered by hand to the addresses indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 12, 2018, at Los Angeles, California.

  
Angelo McCabe

SERVICE LIST

*Hill RHF Housing Partners v. City of Los Angeles, et al.*  
*Los Angeles Superior Court Case No. BS 170127*

Timothy D. Reuben Stephen L. Raucher Hana S. Kim Reuben Raucher & Blum 12400 Wilshire Blvd., Suite 800 Los Angeles, CA 90025 Tel: 310-777-1990 Fax: 310-777-1989 sraucher@rrbattorneys.com hkim@rrbattorneys.com nquach@rrbattorneys.com	<i>Attorney for Plaintiffs</i> <i>Hill RHF Housing Partners, L.P. and</i> <i>Olive RHF Housing Partners, L.P.</i>
Daniel M. Whitley, Esq. Beverly A. Cook, Esq. Deputy City Attorney Public Finance/Economic Development 200 N. Spring Street, Suite 920 Los Angeles, CA 90012 Tel: 213-978-7786 Fax: 213-978-7811 daniel.whitley@lacity.org beverly.cook@lacity.org	<i>Attorney for City of Los Angeles</i>